United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR,
FISH AND WILDLIFE SERVICE

In Reply Refer To:
FWS/AFHC/011256

APR 0 3 2003

Mr. Branden Blum
Senior Counselor
c/o Office of the General Counsel
for Ocean Services
U.S. Department of Commerce
1305 East-West Highway
Silver Spring, Maryland 20910

Dear Mr. Blum:

Thank you for the opportunity to provide input into your evaluation of an appeal of a Connecticut Department of Environmental Protection (CTDEP) decision to deny Coastal Zone Management Act (CZMA) consistency for the proposed Islander East Pipeline Project in Connecticut. The CTDEP decision was largely based on the adverse impacts associated with the proposed crossing of Long Island Sound, a National Marine Fisheries Service (NMFS)-designated Essential Fish Habitat (EFH) area, portions of which are State-designated shellfish leases.

The U.S. Fish and Wildlife Service (FWS) has been evaluating the project's proposed impacts to coastal resources, in cooperation with a variety of State and Federal agencies, including the NMFS, the U.S. Army Corps of Engineers (Corps), and the Federal Energy Regulatory Commission (FERC). We believe that our input will be most helpful with respect to CZMA objectives requiring an evaluation of whether the adverse effects of the proposed activity outweigh its contribution to the national interest, when those effects are considered separately or cumulatively.

Long Island Sound is a NMFS-designated EFH and provides valuable marine habitat for a variety of fish and wildlife species, including migratory birds and commercially important fish and shellfish species. Pipeline construction and maintenance will have long-term effects on substrate and directly affect shellfish and other benthic organisms. Construction will also cause local increases in turbidity, direct and indirect mortality for benthic organisms, and possibly resuspend contaminated sediments.

The impacts associated with pipeline failure were not completely assessed in the project's environmental documents. In addition to direct mortality resulting from a rupture, methane has been shown to have some toxic effects on aquatic organisms. Medium to heavy methane intoxication affects the nervous and cardiovascular system in fish and can result in irreversible damage to the cerebrum and heart tissue, and can cause leukocytosis. We understand that methane is relatively insoluble in water compared to gases such as carbon dioxide and oxygen, but data collected after accidental gas blowouts in the Sea of Asov in 1982 and 1985 indicated that fish suffered abnormalities indicative of acute poisoning such as impaired coordination, pathologies of organs and tissues, and modifications of protein synthesis that were similar to anomalies found in test fish kept for 4 to 5 days in cages near the blowout site (Patin 1999). Elevated methane levels were detected in the water column at least 500 meters from the pipeline.

A large part of the proposed project was to serve electrical generating facilities that may be built at existing plants that may convert to natural gas. Numerous gas transmission pipelines and electric transmission lines are being proposed or constructed to serve the New York City area. In a letter to the FERC dated May 10, 2002, the U.S. Department of the Interior (Department) recommended that the need for the project be evaluated. Also, the Department recommended that the FERC should evaluate the impacts associated with the construction and/or rehabilitation of electric generation plants as per the National Environmental Policy Act of 1969, which requires Federal agencies to evaluate the cumulative effects of a proposed project. Cumulative effects are defined at 40 CFR § 1508.7 as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions."

Both the Draft Environmental Impact Statement (EIS) and Final EIS reviewed a one-pipe alternative that could transport gas volumes proposed for both Islander East and the Eastern Long Island projects. The Department supported the one-pipe alternative as a method to reduce impacts while meeting anticipated gas demand.

The Department also reviewed proposed route variations in the Draft EIS and Final EIS and recommended that detailed surveys be performed to identify the least environmentally damaging alternative for the project's section 404/section 10 permit application to the Corps.

Our evaluation of project impacts considers the balance between the benefits and reasonably foreseeable detriments of the proposed activity on the public interest. We believe that the project will contribute directly to the degradation of important fish and wildlife habitats and may lead to increased secondary impacts associated with the construction of laterals and generating stations that were not evaluated in the project's environmental documents. We continue to recommend an evaluation of need for the proposed gas volumes, and if the need for the project can be justified, then alternatives such as pipeline consolidation should be explored to deliver the

required volumes and reduce environmental impacts. Enclosed, please find copies of the Department's response to the Draft EIS and the Final EIS, which summarize the FWS's concerns.

For further information, please contact Sherry Morgan at 413-253-8610, or Alex Hoar at 413-253-8631.

Sincerely,

DIRECTOR

Enclosures

Literature Cited:

Patin, S.A. 1999. Environmental Impact of the Offshore Oil and Gas Industry. Ecomonitor Publishing. East Northport, New York

USFWS. 1997. Significant Habitats and Habitat Complexes of the New York Bight Watershed. U.S. Department of the Interior, Fish and Wildlife Service, Southern New England - New York Bight Coastal Ecosystems Program, Charlestown, Rhode Island.

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
408 Atlantic Avenue - Room 141
Boston, Massachusetts 02210-3334

May 10, 2002

(ER-02/281)

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First St., NE., Room 1A
Washington, D.C., 20426

Re: Comments
Draft Environmental Impact Statement for the Islander East Pipeline Project
OEP/DEER/Gas Branch 2
Islander East Pipeline Company, L.L.C., Docket No. CP01-384-000
Algonquin Gas Transmission Company, Docket No. CP01-387-000

Dear Ms. Salas:

The Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement (DEIS) for the Islander East Pipeline Project, New Haven County, Connecticut, and Suffolk County, New York (FERC Docket Nos. CP01-384-000 and CP01-387-000).

Project Description

The proposed project would include the construction of 44.8 miles of 24-inch diameter pipeline from New Haven County, Connecticut, to Suffolk County, New York, a 5.6 mile lateral (hereafter referred to as the Calverton lateral) in Suffolk County, and associated aboveground facilities such as valves, meter stations, pipe yards, and compressor stations. The proposed facilities would transport approximately 285,000 dekatherms per day (Dth/d).

Purpose and Need

The Draft Environmental Impact Statement (DEIS) states that part of the project purpose is to provide natural gas to older generating facilities that may convert to natural gas. The amount of gas that would be dedicated to these facilities was not provided nor was the level of unsubscribed capacity specified. We recommend that the Federal Energy Regulatory Commission (FERC) determine whether sufficient demand for the proposed gas volumes exists and whether sufficient capacity is subscribed to justify the project.

Indirect and Cumulative Effects

The DEIS does not fully address the impacts resulting from the construction and operation of any new generating facilities that may be associated with the proposed project (Table 3.13-1). Because the primary purpose of the pipeline is to supply these facilities, the Department recommends that the FERC identify and quantitatively describe impacts associated with these facilities as part of the cumulative impact analysis of the proposed project. The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to evaluate the indirect and cumulative effects of a Federal action. Cumulative effects are defined at 40 CFR § 1508.7 as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." Indirect effects are defined in the Council of Environmental Quality regulations at 40 CFR § 1508.8 as effects "caused by the action and are later in time or further removed in distance, but are reasonably foreseeable. Indirect effects may include growth inducing effects or other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air, water and other natural systems, including ecosystems."

Federally-listed Species

Comments on Federally-listed species were provided to the applicant from the U.S. Fish and Wildlife Service's (Service) New England Field Office on July 30, 2001, and from the New York Field Office (NYFO) on July 31 and August 1, 2001. The applicant's consultant, the Natural Resources Group, contacted the Service's New York Field Office on April 22, 2002, to request additional information on the effects of activities such as detecting cave-ins following the directional drilling of the shoreline and running 6- to 8-inch diameter hoses over beach habitat to pump water to be used for hydrostatic testing. Both these activities were proposed during the nesting period (April 1 through September 1) for piping plover (*Charadrius melodus*), a Federally listed threatened species. The Service recommended that the applicant perform a deep directional drill to avoid the risk of cave-ins and avoid siting water supply hoses in piping plover habitat during the nesting season. Should these measures not be incorporated into plans for the respective projects, a biological assessment, or further consultation pursuant to Section 7 of the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) will be required with the Service to evaluate potential adverse effects of project implementation on the piping plover and its habitat, and to determine if formal consultation is necessary.

The piping plover is also listed as endangered by the State of New York. Project plans should also be coordinated with the New York State Department of Environmental Conservation (NYSDEC). The NYSDEC contact for the piping plover is Mr. Dan Rosenblatt, New York State Department of Environmental Conservation, Building 40, SUNY, Stony Brook, NY 11794 (telephone: [631] 444-0305).

Wetlands and Waterbodies

The proposed project would affect 11 perennial waterbodies (including Long Island Sound), 4 intermittent waterbodies, and 43 wetlands (32.5 acres). The Department recommends avoiding and reducing impacts to wetlands and waterbodies to the maximum extent practicable by consolidating pipelines whenever possible. In addition to the Islander East project, the FERC is preparing an EIS for the Eastern Long Island (ELI) project, a pipeline with a similar route and a customer base that may overlap with that of the Islander East project. We support the FERC's proposal to examine whether the demand for gas can justify both the Islander East and the ELI projects. We also would be in favor of a one-pipe alternative that would meet the projected gas demand for the customer base and result in a reduction in environmental impacts compared to the impacts associated with two separate projects.

The project would cross both cold water and warm water streams. The Department supports the proposed dry crossing of the Connecticut streams and recommends using a dry crossing of the Peconic River; either a flume, pump-around, or a conventional bore to reduce sedimentation. To reduce impacts to spawning salmonids, the Department recommends crossing cold water streams between April 1 and September 15. Warm water streams should be crossed during a low water period between June 30 and March 1. Following construction, stream banks should be stabilized and revegetated with appropriate woody species. Examples of vegetation suitable for establishment and recommended planting specifications can be found in Gaffney *et al.* (1991)

The Department is also concerned about the impacts associated with the planned Connecticut-Long Island Lateral (CLIL) project, which would transport gas from Tennessee Gas Pipeline Company's facilities in Pennsylvania and New Jersey. Before the FERC makes a final decision to issue a certificate of public convenience and necessity for the Islander East project, we recommend that the FERC determine whether modifications to the Islander East/ELI could be reasonably made to deliver the additional gas volumes planned for the CLIL project.

The Department has reviewed the proposed route variations for the Islander East project. It appears that some variations may result in reductions in impacts to wetlands, but field surveys would be required to make an accurate determination. In some cases, such as the Pine Orchard Variation, wetland impacts were assessed using National Wetlands Inventory (NWI) maps. National Wetlands Inventory maps are generally based on aerial imagery and are likely to be less accurate than field surveys. Therefore, comparisons made between impacts associated with the proposed route (for which field surveys were performed) and the variation (for which NWI maps were used) may not be accurate. As this project will likely require a permit pursuant to Section 404 of the Clean Water Act of 1970, as amended (P.L. 92-500) from the U.S. Army Corps of Engineers, we recommend that wetlands be field-delineated so that the least environmentally-damaging practicable alternative can be identified.

The Department supports the use of a directional drill to construct the nearshore approach to Long Island to reduce impacts to nearshore habitats and Federally-listed species and their habitat.

Mitigation

The DEIS includes many recommendations for reducing the extent of impacts to wetlands and waterbodies, but does not include a plan to compensate for unavoidable impacts to wetlands. We recognize that most direct wetland impacts will be temporary in nature, but there will be a temporal loss of emergent and scrub-shrub wetland habitat and a permanent loss of forested wetland. Therefore, the Department recommends that the applicant develop a plan that will adequately compensate for the proposed impacts. Specifically, we recommend restoration/creation of wetlands at a 1:1 acreage ratio and preservation at a 2:1 ratio. Mitigation should be in-kind and sites located in both Connecticut and New York. Because many of the wetlands are in areas where invasive/exotic plant species are abundant, we recommend that restored/created wetlands and those wetlands temporarily impacted by the project be monitored for a period of 10 years, with reports generated during years 1, 2, 5, and 10. If during any monitoring period, invasive/exotic plant species occupy more than 5% of any vegetative community, the applicant should eradicate these species and establish plant species beneficial to wildlife.

Contaminants

The Department is concerned about the potential release of contaminants resulting from the proposed crossing of Long Island Sound and recommends that the applicant consult with the NYSDEC and perform surveys of the proposed pipeline route that includes a profile of contaminant concentrations at various depths from the surface to the bottom of the proposed trench. Any samples with contaminant concentrations exceeding the values provided in the Technical Guidance for Screening Contaminated Sediments (NYSDEC 1999), should be assessed for potential risk. The assessment should also evaluate whether buried contaminants could potentially be resuspended and deposited in areas where these materials would become bioavailable. Also, the movement of materials from an anoxic/hypoxic site to areas with oxygenated water may result in changes in the bioavailability and/or toxicity of these materials.

Summary Comments

The Department makes the following recommendations for the proposed project:

- Determine the projected gas demand for the region, quantify subscribed and unsubscribed capacity, and consolidate pipelines to the maximum extent practicable.
- Avoid impacts to Federally-listed species as described above and continue ongoing coordination with the Service and the respective state agencies.
- Minimize impacts to wetlands and streams and revegetate stream banks following disturbance. Avoid in-water stream work outside the Department's construction windows.
- Use a directional drill for construction in the nearshore areas in Connecticut and New York and prevent the release of drill muds.
- Mitigate for unavoidable wetland impacts as described above.
- Identify areas of contamination and coordinate with the appropriate agencies.

We appreciate the opportunity to comment on this proposal. If you have any questions regarding this letter, please contact Alex Chmielewski of the New York Field Office (607) 753-9334.

Sincerely,

Andrew L. Raddant
Regional Environmental Officer

Literature Cited

Gaffney, F.B., J.A. Dickerson, R.E. Myers, D.K. Hoyt, H.F. Mooney, and R.E. Smith. 1991. A Guide to: Conservation Plantings on Critical Areas for New York. U.S. Department of Agriculture, Soil Conservation Service, Syracuse, New York, 48 pages.

NYSDEC. 1999. Technical Guidance for Screening Contaminated Sediments. New York State Department of Environmental Conservation, Albany, NY. 39 pages

# United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

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ER 02/281

OCT 3 2002

Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

RE: **Comments on the Final EIS for the Islander Pipeline Project, Islander East Pipeline Company, L.L.C, Docket No. CP01-384-000, and Algonquin Gas Transmission Company, Docket No. CP01-387-000, New Haven County, Connecticut, and Suffolk County, New York**

Dear Ms. Salas:

The U.S. Department of the Interior (Department) has reviewed the subject Final Environmental Impact Statement (FEIS) for the Islander Pipeline Project, Docket Nos. CP01-384-000 and CP01-387-000, located in New Haven County, Connecticut and Suffolk County, New York. We continue to note that some comments raised in our May 10, 2002, letter were not adequately addressed in the final document.

Indirect and Cumulative Effects

The FEIS does not fully address the impacts resulting from the construction and operation of any new generating facilities that may be associated with the proposed project. The Federal Energy Regulatory Commission (FERC) states that impacts associated with these facilities are outside of their jurisdiction. However, cumulative effects, defined at 40 CFR § 1508.7, include those effects associated with "past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." Also, 40 CFR § 1502.14(c) states that the alternatives analysis must "include reasonable alternatives not within the jurisdiction of the lead agency."

Because one of the primary purposes of the pipeline is to supply these facilities, the Department believes that FERC should have identified and quantitatively described impacts associated with these facilities as part of the cumulative impact analysis of the proposed project. Additional effects include indirect impacts such as growth inducing effects or other effects related to induced changes in the pattern of land use, population density, or growth rate, and related effects on air, water, and other natural systems, including ecosystems.

Federally-listed Species

Comments on Federally-listed species were provided to the applicant from the U.S. Fish and Wildlife Service's (FWS) New England Field Office on July 30, 2001, and from the New York Field Office on July 31, 2001, August 1, 2001, and August 6, 2002, in response to the applicant's letters of June 20, July 11, and July 26, 2002. If the measures described in Section 3.6.4.1 of the FEIS are incorporated, the project is not likely to adversely affect the piping plover in New York.

Should these measures not be incorporated into plans for the respective project, a biological assessment or further consultation pursuant to Section 7 of the Endangered Species Act (87 Stat. 884, as amended: 16 U.S.C. 1531 et seq.) will be required with the FWS to evaluate potential adverse effects of project implementation on the piping plover and its habitat, and to determine if formal consultation is necessary.

The piping plover is also listed as endangered by the State of New York. Project plans should also be coordinated with the New York State Department of Environmental Conservation (NYSDEC). The NYSDEC contact for the piping plover is Mr. Dan Rosenblatt, New York State Department of Environmental Conservation, Building 40, SUNY, Stony Brook, NY 11794 (telephone: 631-444-0305). The FEIS states that FERC will continue to coordinate with the NYSDEC regarding the piping plover.

Wetlands and Waterbodies

The proposed project would affect 13 perennial waterbodies (including Long Island Sound), 6 intermittent waterbodies, and 41 wetlands (30.61 acres). The Department recommends avoiding and reducing impacts to wetlands and waterbodies to the maximum extent practicable by consolidating pipelines whenever possible. In addition to the Islander East project, FERC is reviewing a filing for the Eastern Long Island (ELI) project, a pipeline with a similar route and a customer base that may overlap with that of the Islander East project. If the demand for gas justifies the need for the volumes delivered by both pipelines, we would recommend a one-pipe alternative that would meet the projected gas demand for the customer base and result in a reduction in environmental impacts compared to the impacts associated with two separate projects.

The Department's May 10, 2002, letter recommended construction windows to reduce impacts to spawning fish. Those recommendations included crossing cold water streams between April 1 and September 15, and crossing warm water streams during a low water period between June 30 and March 1. Following construction, stream banks should be stabilized and revegetated with appropriate woody species. Examples of vegetation suitable for establishment and recommended planting specifications can be found in Gaffney *et al.* (1991).

The Department is also concerned about the impacts associated with the planned Connecticut-

Long Island Lateral (CLIL) project, which would transport gas from the Tennessee Gas Pipeline Company's facilities in Pennsylvania and New Jersey. We repeat our May 10, 2002, recommendation that FERC determine whether modifications to the Islander East/ELI could be reasonably made to deliver the additional gas volumes planned for the CLIL project.

We also recommended that the applicant perform field delineations to accurately identify the location and extent of wetlands that would be impacted by potential route variations. For some route variations wetland impacts were assessed using National Wetlands Inventory (NWI) maps. National Wetlands Inventory maps are generally based on aerial imagery and are likely to be less accurate than field surveys. Therefore, comparisons made between impacts associated with the proposed route (for which field surveys were performed) and the variation (for which NWI maps were used) may not be accurate. FERC responded that other land use issues may also be considered in determining the route.

The Department recognizes that FERC has to consider many issues when selecting a route, and we encourage FERC to ensure that wetlands information used for decision-making is accurate. This project will likely require a permit pursuant to Section 404 of the Clean Water Act of 1973, as amended (P.L. 92-500) from the U.S. Army Corps of Engineers (Corps). Because the Corps has to determine the least environmentally-damaging practicable alternative, we repeat our recommendation that the wetlands be field delineated before selecting a final route.

The Department supports the use of a directional drill to construct the nearshore approach to Long Island to reduce impacts to nearshore habitats and Federally-listed species and their habitat. Furthermore, we support implementing measures to recapture or prevent the release of drill muds into Long Island Sound.

Contaminants

The Department is concerned about the potential movement of contaminated groundwater along the pipeline trench in the vicinity of Brookhaven National Laboratory (BNL), or resuspension of contaminants during construction restoration of the Peconic River crossing. We recommend that the applicant consult with the BNL environmental staff to determine where hotspots may occur along the proposed route. We also recommend that the applicant: 1) develop a contingency plan in the event that contaminated groundwater is encountered during construction, 2) ensure that changes in groundwater movement along the trench do not occur, and 3) develop and implement a post-construction monitoring and remediation program in coordination with BNL staff, to ensure that any changes in contaminant movements are detected and remediated.

Mitigation

The Department's May 10, 2002 letter provided FERC with recommendations for compensatory mitigation for impacts to waters of the United States that could not be avoided or reduced. The

FWS would appreciate the opportunity to review and comment on any mitigation plan prepared for this project.

Summary Comments

The Department continues to ask your consideration of the following items as the project progresses:

1. Avoid impacts to Federally-listed species as described above and continue ongoing coordination with the respective resource agencies.

2. Minimize impacts to wetlands and streams and revegetate stream banks following disturbance. Avoid in-water stream work outside our recommended construction windows.

3. Implement measures to ensure that contaminants are not resuspended or move along the trench as described above.

4. Mitigate for unavoidable wetland impacts as described above.

Thank you for the opportunity to review the document. If you have any questions or need further assistance, please contact Mr. David A. Stilwell, Field Supervisor, U.S. Fish and Wildlife Service, 3817 Luker Road, Cortland, NY 13045 (tel: 607-753-9334).

Sincerely,

Willie R. Taylor, Director
Office of Environmental
Policy and Compliance

Literature Cited

Gaffney, F.B., J.A. Dickerson, R.E. Myers, D.K. Hoyt, H.F. Moonen, and R.E. Smith. 1991. A Guide to: Conservation Plantings on Critical Areas for New York. U.S. Department of Agriculture, Soil Conservation Service, Syracuse, New York, 48 pages.

NYSDEC. 1999. Technical Guidance for Screening Contaminated Sediments. New York State Department of Environmental Conservation, Albany, NY. 39 pages